

LEGISLATIVE BILL 720

Approved by the Governor May 30, 2003

Introduced by Urban Affairs Committee: Hartnett, 45, Chairperson; Combs, 32; Connealy, 16; Friend, 10; Janssen, 15; Landis, 46; Schimek, 27

AN ACT relating to the Transit Authority Law; to amend sections 14-1801, 14-1803, 14-1813, 14-1820, 14-1821, and 14-1823, Reissue Revised Statutes of Nebraska, and section 14-1805, Revised Statutes Supplement, 2002; to change provisions relating to transit authority jurisdiction, taxing authority, and board membership; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 14-1801, Reissue Revised Statutes of Nebraska, is amended to read:

14-1801. It is hereby determined and declared as a matter of legislative finding and policy:

(1) That traffic, passenger, truck, and pedestrian, in the streets of cities of the metropolitan class, a county in which such a city is located, adjacent counties, and cities and villages located in such counties, has become severely congested by the great number of motor vehicles operating therein; that such conditions have been accentuating for a period of years, and all signs and indications are that such congestion will continue to increase; that such conditions constitute a hazard and a handicap to the use of streets within ~~cities of the metropolitan class~~ such counties, cities, and villages and constitute a continuing detriment to the operation of all characters of business in such ~~metropolitan~~ counties, cities, and villages; all of which is a matter of statewide concern, and, unless legislative action is taken, will constitute a public nuisance; and these conditions can and should be relieved by mass transportation of passengers, which an authority, as herein created, could provide.

(2) That such street traffic congestion has created a dangerous hazard to the lives and property of pedestrians and those traveling in private and public vehicles.

(3) That uncongested and unobstructed traffic, both of pedestrians and those riding in or transporting merchandise in vehicles, is necessary to the public health, safety, security, prosperity, well-being, and welfare of all the people.

(4) That such existing congestion of the streets in such counties, cities, and villages of the metropolitan class handicaps and obstructs the administration of firefighting forces and police protection forces.

(5) That the relieving of congestion in the streets of such counties, cities, and villages of the metropolitan class, and the providing of a comprehensive passenger transportation system in such counties, cities, and villages of the metropolitan class, is a matter of public interest and statewide concern and within the powers and authority inhering in and reserved to the state.

Sec. 2. Section 14-1803, Reissue Revised Statutes of Nebraska, is amended to read:

14-1803. (1) Whenever in this state a city of the metropolitan class, a county in which such city is located, one or more adjacent counties, and any city or village located in such counties are served in whole or in part by a common transit system, owned and controlled by a city of the metropolitan class as provided for in the Transit Authority Law, then the territory within the limits of the city of the metropolitan class and such counties, cities, or villages, including any counties, cities, and villages that may be now or hereafter served in whole or in part by the common transit system, shall form and constitute a transit authority. No county, city, or village shall become a part of the transit authority except upon approval of the governing body of the county, city, or village and formal approval and proclamation by the board of directors of the transit authority.

(2) Any city of the metropolitan class may create by ordinance a transit authority to be managed and controlled by a board of five members which shall be appointed as provided in section 14-1813 and shall have full and exclusive jurisdiction and control over all facilities owned or acquired by such city for a public passenger transportation system. The governing body of such city, in the exercise of its discretion, shall find and determine in the ordinance creating such transit authority that its creation is expedient and necessary. The chairperson of such transit authority shall be paid as

compensation for his or her services not more than six hundred dollars per month. Each other member of such transit authority shall be paid as compensation for his or her services not more than five hundred dollars per month. All salaries and compensation shall be obligations against and paid solely from the revenue of such transit authority. Members of such transit authority shall also be entitled to reimbursement for expenses paid or incurred in the performance of the duties imposed upon them by the Transit Authority Law with reimbursement for mileage to be made at the rate provided in section 81-1176. The board may delegate to one or more of the members or to officers, agents, and employees of the authority such powers and duties as it may deem proper. Any transit authority created pursuant to such law shall have and retain full and exclusive jurisdiction and control over all public passenger transportation systems in such city, county in which such city is located, adjacent county, or city or village located in such counties served by the authority, excluding taxicabs and railroad systems, with the right and duty to charge and collect revenue for the operation and maintenance of such systems and for the benefit of the holders of any of its bonds or other liabilities. If such authority ceases to exist, its rights and properties shall pass to and vest in such city.

Sec. 3. Section 14-1805, Revised Statutes Supplement, 2002, is amended to read:

14-1805. For the purpose of accomplishing the object and purpose of the Transit Authority Law, the authority shall possess all the necessary powers of a public body corporate and governmental subdivision of the State of Nebraska, including, but not limited to, the following powers:

(1) To maintain a principal office in the city of the metropolitan class in which created;

(2) To adopt the official seal of the authority and to alter the same at its pleasure;

(3) To employ a general manager, engineers, accountants, attorneys, financial experts, and such other employees and agents as may be necessary in its judgment, to fix the compensation of and to discharge the same, to negotiate with employees and enter into contracts of employment, to employ persons singularly or collectively, and, with the consent of such city, to use the services of agents, employees, and facilities of such city, including the city attorney as legal advisor to such authority, for which such authority shall reimburse such city a proper proportion of the compensation or cost thereof;

(4) To adopt bylaws and adopt and promulgate rules and regulations for the regulation of its affairs and for the conduct of its business;

(5) To acquire, lease, own, maintain, and operate for public service a public passenger transportation system, excluding taxicabs and railroad systems, within or without a city of the metropolitan class;

(6) To sue and be sued in its own name, but execution shall not, in any case, issue against any of its property, except that the lessor, vendor, or trustee under any agreement, lease, conditional sales contract, conditional lease contract, or equipment trust certificate, as provided for in subdivision (15) of this section, may repossess the equipment described therein upon default;

(7) To acquire, lease, and hold such real or personal property and any rights, interests, or easements therein as may be necessary or convenient for the purposes of the authority and to sell, assign, and convey the same;

(8) To make and enter into any and all contracts and agreements with any individual, public or private corporation or agency of the State of Nebraska, public or private corporation or agency of any state of the United States adjacent ~~and contiguous~~ to the city of the metropolitan class, and the United States of America as may be necessary or incidental to the performance of its duties and the execution of its powers under the Transit Authority Law and to enter into agreements authorized under the Interlocal Cooperation Act or the Joint Public Agency Act;

(9) To contract with an operating and management company for the purpose of operating, servicing, and maintaining any public passenger transportation systems of such authority;

(10) To acquire and hold capital stock in any passenger transportation system, excluding taxicabs and railroad systems, solely for the purpose of lawfully acquiring the physical property of such corporation for public use;

(11) To borrow money and issue and sell negotiable bonds, notes, or other evidence of indebtedness, to provide for the rights of the holders thereof, and to pledge all or any part of the income of the authority received as herein provided to secure the payment thereof. The authority shall not have the power to pledge the credit or taxing power of the state or any

political subdivision thereof, except such tax receipts as may be authorized herein, or to place any lien or encumbrance on any property owned by the state, county, or city used by the authority;

(12) To receive and accept from the government of the United States of America or any agency thereof, from the State of Nebraska or any subdivision thereof, and from any person or corporation, donations or loans or grants for or in aid of the acquisition or operation of passenger transportation facilities, and to administer, hold, use, and apply the same for the purposes for which such grants or donations may have been made;

(13) To exercise the right of eminent domain under and pursuant to the Constitution, statutes, and laws of the State of Nebraska to acquire private property, including any existing private passenger transportation system, but excluding any taxicabs, railroad, and air passenger transportation systems, which is necessary for the passenger transportation purposes of the authority and including the right to acquire rights and easements across, under, or over the right-of-way of any railroad. Exercise of the right of eminent domain shall be pursuant to sections 76-704 to 76-724;

(14) Subject to the continuing rights of the public to the use thereof, to use any public road, street, or other public way in any city of the metropolitan class, county in which such city is located, adjacent county, or city or village located in such counties served by the authority for transportation of passengers;

(15) To purchase and dispose of equipment, including motor buses, and to execute any agreement, lease, conditional sales contract, conditional lease contract, and equipment trust note or certificate to effect such purpose;

(16) To pay for any equipment and rentals therefor in installments and to give evidence by equipment trust notes or certificates of any deferred installments, and title to such equipment need not vest in the authority until the equipment trust notes or certificates are paid;

(17) To certify annually to the local lawmaking body of the city of the metropolitan class, county in which such city is located, adjacent county, or city or village located in such counties served by the authority such tax request for the fiscal year commencing on the first day of the following January as, in its discretion and judgment, the authority determines to be necessary, pursuant to section 14-1821. The local lawmaking body of such county, city, or village of the metropolitan class is authorized to levy and collect such taxes in the same manner as other taxes in such county, city, or village subject to section 77-3443;

(18) To apply for and accept grants and loans from the government of the United States of America, or any agency or instrumentality thereof, to be used for any of the authorized purposes of the authority, and to enter into any agreement with the government of the United States of America, or any agency or instrumentality thereof, in relation to such grants or loans, subject to the provisions hereof;

(19) To determine routes and to change the same subject to the provisions hereof;

(20) To fix rates, fares, and charges for transportation. The revenue derived from rates, fares, and charges herein provided, and from any grants or loans herein authorized shall at all times be sufficient in the aggregate to provide for the payment of: (a) All operating costs of the transit authority, (b) interest on and principal of all revenue bonds, revenue certificates, equipment trust notes or certificates, and other obligations of the authority, and to meet all other charges upon such revenue as may be provided by any trust agreement executed by such authority in connection with the issuance of revenue bonds or certificates under the Transit Authority Law, and (c) any other costs and charges, acquisition, installation, replacement, or reconstruction of equipment, structures, or rights-of-way not financed through the issuance of revenue bonds or certificates;

(21) To provide free transportation for firefighters and police officers in uniform in the city of the metropolitan class, county in which such city is located, adjacent county, or city or village located in such counties served by the authority in which they are employed and for employees of such authority when in uniform or upon presentation of proper identification;

(22) To enter into agreements with the Post Office Department of the United States of America or its successors for the transportation of mail and letter carriers and the payment therefor;

(23) To exercise all powers usually granted to corporations, public and private, necessary or convenient to carry out the powers granted by the Transit Authority Law; and

(24) To establish pension and retirement plans for officers and

employees and to adopt any existing pension and retirement plans and any existing pension and retirement contracts for officers and employees of any passenger transportation system purchased or otherwise acquired pursuant to the Transit Authority Law.

Sec. 4. Section 14-1813, Reissue Revised Statutes of Nebraska, is amended to read:

14-1813. (1) Except as provided in subsection (2) of this section, whenever ~~Whenever~~ any city of the metropolitan class creates an authority, the board shall consist of five members to be selected as follows: ~~(1)~~ (a) The mayor, with the approval of the city council and the county board of the county in which the city is located, shall appoint one member who shall serve for one year, one member who shall serve for two years, one member who shall serve for three years, one member who shall serve for four years, and one member who shall serve for five years; and ~~(2)~~ (b) upon the expiration of the term of each appointed officer, the mayor, with the approval of the city council and the county board of the county in which the city is located, shall appoint a member who shall serve for a term of five years. Members of such board shall be residents of the city for which such authority is created transit authority territory described in section 14-1803 and one member of the board shall be nominated and selected as provided in subsection (2) of this section. In cities of the metropolitan class where a board has been heretofore appointed, the mayor, with the approval of the city council and the county board of the county in which the city is located, shall by resolution redesignate the terms of the members of such board in accordance with the provisions of sections 14-1803, 14-1805, 14-1812, and 14-1813, except that until such redesignation is made the terms shall stand as provided for in the original appointment.

(2) Notwithstanding any provisions of the city charter of the city of the metropolitan class to the contrary, when the next vacancy will occur on the board after the effective date of this act resulting from the expiration of the term of office of a member of the board, notice of such vacancy shall be communicated to the clerk of each county, city, or village which is part of the transit authority territory. Such notice shall be provided at least forty-five days prior to the expiration of the term of office of the member. Each county, city, and village, other than the city of the metropolitan class, may, by majority vote of their governing bodies, recommend the appointment of one or more residents of their respective jurisdictions to fill the board position. Such nominations shall be filed with the mayor of the city of the metropolitan class not later than the thirtieth day following the date of receipt of notice of the vacancy. The mayor shall make the appointment to fill the board position from such nominations. The individual appointed by the mayor, upon approval by the city council of the city of the metropolitan class, shall become a member of the board. Thereafter, any successor to such board member, either by reason of vacancy or the expiration of such board member's term, shall possess the residence qualifications provided for in this subsection, and such board position shall be filled in the manner provided for in this subsection.

(3) Except as provided in subsection (2) of this section, any ~~Any~~ vacancy on such board, resulting other than from expiration of a term of office, shall be filled by the mayor of the city of the metropolitan class, with the approval of the city council and the county board of the county in which the city is located, and such appointee shall possess the same residence qualifications as the member whose office he or she is to fill and shall serve the unexpired portion, if any, of the term of the member whose office was vacated.

(4) Each member, before entering upon the duties of the office, shall file with the city clerk of the city of the metropolitan class an oath that he or she will duly and faithfully perform all the duties of the office to the best of his or her ability, and a bond in the penal sum of five thousand dollars executed by one or more qualified sureties for the faithful performance of his or her duties. If any member shall fail to file such oath and bond on or before the first day of the term for which he or she was appointed or elected, his or her office shall be deemed to be vacant.

(5) A member of such board may be removed from office for incompetence, neglect of duty, or malfeasance in office. An action for the removal of such officer may be brought, upon resolution of the city council of the city of the metropolitan class or the county board of the county in which the city is located, in the district court of the county in which such city is located.

Sec. 5. Section 14-1820, Reissue Revised Statutes of Nebraska, is amended to read:

14-1820. As soon after the end of each fiscal year as may be

expedient, the board shall cause to be prepared and printed a complete and detailed report and financial statement of its operations and of its assets and liabilities. A reasonably sufficient number of copies of such report shall be printed for distribution to persons interested, upon request, eight copies shall be filed with the Nebraska Publications Clearinghouse, and ~~one~~ a copy thereof shall be mailed to the mayor and members of the city council and the governing board of any county in which such city is located, adjacent county, or city or village located within such counties served by the authority, and filed with the city clerk of such the city of the metropolitan class county, city, or village.

Sec. 6. Section 14-1821, Reissue Revised Statutes of Nebraska, is amended to read:

14-1821. To assist in the defraying of all character of expense of the authority and to such extent as in its discretion and judgment may be necessary, the board shall annually certify a tax request for the fiscal year commencing on the following January 1. Such tax request shall not exceed in any one year ten cents on each one hundred dollars on the taxable value of the taxable property in the city of the metropolitan class or taxable property in any county in which such city is located, adjacent county, or city or village located within such counties served by the authority. The board shall by resolution, on or before September 20 of each year, certify such tax request to the city council of such city and the governing board of any county in which such city is located, adjacent county, or city or village located within such counties served by the authority. Such county, city, or village is hereby authorized to cause such tax to be levied and to be collected as are other taxes by the treasurer of such city or village or the county treasurer as ex officio treasurer of the city in which the city is situated or in his or her official capacity as county treasurer and paid over by him or her to the treasurer of such board subject to the order of such board and subject to section 77-3443. If in any year the full amount so certified and collected is not needed for the current purposes of such authority, the balance shall be credited to reserves of such authority to be used for acquisition of necessary property and equipment.

Sec. 7. Section 14-1823, Reissue Revised Statutes of Nebraska, is amended to read:

14-1823. It shall be the duty of the board, as promptly as possible, to rehabilitate, reconstruct, and modernize all portions of any transportation system acquired, and to maintain at all times an adequate and modern transportation system suitable and adapted to the needs of the county, city, or village served by the authority, and for safe, comfortable, convenient, and expeditious service. To assure modern, attractive transportation service the board may establish a depreciation policy which makes provision for the continuous and prompt replacement of worn out and obsolete property and the board may make provision for such depreciation of the property of the authority as is not offset by current expenditures for maintenance, repairs, and replacements, under such rules and regulations as may be prescribed by the board.

Sec. 8. Original sections 14-1801, 14-1803, 14-1813, 14-1820, 14-1821, and 14-1823, Reissue Revised Statutes of Nebraska, and section 14-1805, Revised Statutes Supplement, 2002, are repealed.